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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,464	01/26/2001	Thomas Thoroe Scherb	P20417	5460

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RESTON, VA 20191

EXAMINER

HASTINGS, KAREN M

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 01/15/2003

17
Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 091769464Applicant(s) SCHERB ET ALExaminer HASTINGSGroup Art Unit 1731

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/24/02; RCE filing
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-26 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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In light of applicants' letter filed October 24, 2002, in combination with remarks made in paper No. 12, Amendment C, the proposed change to the drawing presented in Paper No. 12 is approved by the Examiner.

Claims 1-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over SE 427053 or Hay et al. further as needed with Albany and Kamps et al.

Note the discussion of SE '053 and Hay et al. on pages 5-6 of the last Office action, Paper No. 11. With respect to newly amended claims 1 and 11, the only thing not explicitly taught by SE '053 and Hay et al. is an explicit recognition that the dimension of the zones has a length or width of less than 5 millimeters. However it is deemed that this dimension is inherently encompassed by the teachings of these references since each reference teaches that the pattern may be formed by as few as 3 or 4 yarns. One of ordinary skill in the art would clearly and immediately envision that this would be on the order of 5 millimeters (that is .2 inches) or less. Common diameters for yarns used in paper machine clothing range from 2 mils (.002 in) to 24 mils (.024 inches)- see Albany, page 14. Clearly even with spacing, a pattern formed with three or four yarns would have resulted in a dimension much less than .2 inches.

Furthermore, since applicants admit that such fabrics as known from Hay et al. and SE '053 may be used in their invention,

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it is clear that fabrics made in accordance with these references must have had these dimensions.

Furthermore, applicants are requested in view of the specification admission that SE '053 or Hay et al.'s fabrics can be used whether such fabrics having a dimension of 5 millimeters or less as claimed are indeed commercially available.

Kamps et al. is also applied as Figure 5 shows a crescent former with the fabric with different zonal permeabilities 13 overlaying a twin wire paper making felt/wire 12.

Comments made in the last office action, paper No 11, with respect to Kamps et al. teaching the zonal variable wire permeability are also incorporated by reference into this Office action.

Claims 9 and 10 are also rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to the claims above, and further in view of Kotitschke for the reasons set forth on page 3 of the last Office action.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to the claims above, and further in view of Eaton et al. for the reasons set forth on pages 3 and 4 of the last Office action.

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Claims 5, 12-14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to the respective claims above, and further in view of Turunen et al.

Turunen is applied for the same reasons set forth on pages 4 and 5 of the last Office action.

Claims 3 and 16 are also rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to the claims above, and further in view of WO 94/28242.

As set forth above, Kamps et al. at Figure 5 shows a crescent former with the variable permeability fabric 13 overlying the twin wire fabric 12. Figure 5 does not explicitly show a suction separation device as now claimed. However, the use of suction separation devices to aid in maintaining the desired travel of the paper web is very well known in the art and thus the use of a suction device to maintain/direct the desired travel of a paper web would have been well within the ordinary level of skill in the art. Furthermore as even necessary, WO '242 exemplifies the known use of a suction device 23 in a twin wire former wherein suction device 23 is utilized to maintain the paper web on the desired travel course at a separation point of the two wires.

Applicants' arguments filed October 24, 2002 have been fully considered but they are not deemed to be persuasive.

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Applicants's major argument is that none of the references teach that the zones have at least one dimension of length and width less than 5 millimeters. However as set out in the new rejections required by applicants' amendment to the claims, both SE '053 and Hay et al. teach a fabric wherein only three or four wires defining the pattern may form each of the two zones. It is the Examiner's position that one of ordinary skill in the art would immediately envision or alternatively it would have been prima facie obvious that a dimension of 5 millimeters is encompassed by such fabrics. The dimension of only three or four repeating yarn fabrics would clearly be a dimension that would be on the order of 5 millimeters or less, as evidenced by Albany.

Furthermore since applicants admit that these fabrics for these references are known fabrics and are useful in this invention, applicants are requested to state on the record whether commercially available fabrics exist that correspond to these references, having at least two zones each with at least one dimension of length and width less than 5 millimeters as recited in the claims.

On page 18 applicants further say that neither SE '053 and/or Hay suggests that the weave patterns have different wire permeabilities. The Examiner disagrees. For example only on column 2 of Hay et al. lines 57-62 they teach that the interlacing density in the ~~lattice~~ is greater than that in one

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or more systematically distributed areas. This clearly would have been immediately understood by one of ordinary skill in the art to result in a fabric having areas of different permeability. Likewise, in page 2 of the translation of SE '053 it is clear that one of ordinary skill in the art would have immediately recognized that the wire having "different porosity and void values in these regions" means that the zones have different wire permeabilities.

Applicants argue that neither SE '053 nor Hay teaches or suggests utilizing their wires in the manner recited in the instant invention. The Examiner disagrees; both references teach that the wire may be used for forming a tissue web and as a forming wire. It clearly would have been prima facie obvious to use it in the same/similar position as Figure 5's fabric 13 in Kamps et al. used to make a tissue web since this is a conventional well known type of machine to make a tissue web.

Other comments made in Paper No. 11 on pages 6-8 responding to applicants' arguments are also incorporated herein by reference.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hastings whose telephone number is (703) 308-0470. The examiner can normally be reached on Monday through Thursday from 6:30 A.M. to 5 P.M.

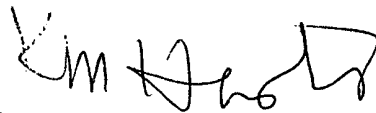
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Steve Griffin, can be reached on (703) 308-1164. The fax phone number for this Group is (703) 305-7115.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Karen M. Hastings
Senior Primary Examiner
Art Unit 1731

KMH/cdc
January 13, 2003

1/2003